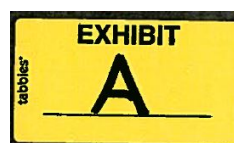


STATE OF INDIANA	)	Kosciusko Superior Court 4	KOSCIUSKO SUPERIOR COURT
	)	SS:	
COUNTY OF KOSCIUSKO	)		CAUSE NO. _____
			43D04-2005-CT-000044
DOUG MARSILLET, II,	)		
	)		
Plaintiff,	)		
	)		
v.	)		
	)		
KOSCIUSKO COUNTY SHERIFF,	)		
ADVANCED CORRECTIONAL	)		
HEALTHCARE, INC. and	)		
NURSE MICHELLE _____,	)		
	)		
Defendants.	)		

### COMPLAINT

Plaintiff, by counsel, alleges against Defendants that:

1. The Plaintiff is Doug Marsillett, II, a former resident of Kosciusko County, Indiana.
2. Defendant Kosciusko County Sheriff Kyle Dukes is named in his official capacity pursuant to 42 U.S.C. § 1983. At all material times to this Complaint, the Sheriff was responsible for the unconstitutional and/or constitutionally deficient policies, practices, and customs in effect at the Kosciusko County Jail, which caused Plaintiff to be denied adequate medical care in violation of Plaintiff's rights under the Fourteenth and/or Eighth Amendments to the United States Constitution and 42 U.S.C. § 1983. The Kosciusko County Sheriff also failed to adequately train and supervise personnel at his jail, as to the appropriate provision of medical services to prisoners with a history of seizures.
3. Plaintiff issued a Tort Claim Notice on December 14, 2018, a copy of which is attached hereto, made a hereof and incorporated herein as Ex. A. All administrative remedies



have been exhausted and jurisdictional prerequisites have been met for the filing of this lawsuit.

4. Defendant Advanced Correctional Healthcare, Inc. (“ACH”) was contracted by the Kosciusko County Sheriff to provide appropriate medical care to detainees and inmates of the Kosciusko County Jail. ACH and its physicians, nurses, and other healthcare providers were reckless and deliberately indifferent to the serious medical needs of the Plaintiff. Defendant Nurse Michelle \_\_\_\_\_, who is believed to be employed by either the Sheriff or ACH, acted in her individual capacity under color of law when she recklessly and deliberately failed to provide Plaintiff with appropriate medical care. Nurse Michelle \_\_\_\_\_ and ACH are liable to the Plaintiff under the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.
5. Plaintiff was incarcerated in the Kosciusko County Jail on or about June 5, 2018. Within approximately two weeks, he suffered a seizure, lost consciousness and fell. During the fall, Plaintiff struck his face on the toilet rim of his cell. Plaintiff sustained multiple injuries to his face, including but not necessarily limited to injuries to his jaw, cheek, and eye socket. The injuries were so severe that one cheek bone and the area around one eye socket were visibly flattened, and his jaw was forced out of alignment.
6. It took jail confinement officers at least an hour to go to the Plaintiff’s cell to assist. In spite of the obvious severity of his facial injuries, the officers refused to send the Plaintiff to the hospital for a medical evaluation or treatment. They also informed him there would not be a nurse to see him for 2 days. The Plaintiff requested an ice pack, and

although jail staff said they would permit this, it still took 2-3 hours to provide one to the Plaintiff. The Plaintiff was denied any pain medication for his severe pain.

7. For the next two days after the fall, the Plaintiff was denied ice packs, pain medication, and soft food. Then, the Plaintiff was seen by a nurse at the Jail, but he still wasn't sent to the hospital, or seen by a physician.
8. For over forty (40) days thereafter, jail staff repeatedly denied the Plaintiff ice packs, pain medication, and soft food, in spite of the continued pain and visible deformity from his facial injuries. On multiple occasions, he also was not given his prescribed seizure medication.
9. The failure to provide the Plaintiff timely and appropriate medical services, medication, and pain management caused Plaintiff to suffer gratuitous and needless pain. In addition, his neglected injuries and pain significantly interfered with his ability to eat.
10. Due to the severity of Plaintiff's facial injuries, his jaw and teeth were offset and/or misaligned, leading to a tooth breaking.
11. After Plaintiff was released from jail, he was seen at a hospital in Warsaw Indiana. Upon finally receiving the medical services he needed, it was determined that Plaintiff required corrective surgery to his cheek bone, and eye socket. Also, Plaintiff's broken tooth, along with a second healthy tooth, had to be dug out of the misaligned jaw and extracted.
12. Plaintiff contends that Defendants' failure to provide Plaintiff timely and appropriate medical evaluation, and services following his seizure and fall, failure to provide him timely and appropriate pain management for his injuries, and failure to provide him his

prescribed medications denied Plaintiff adequate medical care in violation of the Fourteenth and/or Eighth Amendments to the United States Constitution and § 1983.

13. Plaintiff contends that but for the Sheriff's unconstitutional/constitutionally inadequate policies, practices, and customs which were in effect at the Kosciusko County Jail, and/or the Sheriff's failure to adequately supervise and train the personnel at the Jail, the Plaintiff would not have been denied adequate medical care for his seizure disorder, injuries, and severe pain.

14. Plaintiff contends that the Sheriff's unconstitutional and/or constitutionally deficient policies, practices, and customs, and/or his failure to adequately supervise and train the staff at the Kosciusko County Jail, were the direct and proximate cause of the Plaintiff suffering severe physical injury, pain, mental anguish, emotional distress, and other damages and injuries.

WHEREFORE, Plaintiff respectfully requests judgment against Defendants for compensatory damages, punitive damages, reasonable attorneys' fees and costs, and for all other just and proper relief in the premises.

#### **JURY DEMAND**

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiff demands a trial by jury in this action.

Respectfully submitted,

**CHRISTOPHER C. MYERS & ASSOCIATES**

/s/ Christopher C. Myers

Christopher C. Myers, #10043-02  
809 South Calhoun Street, Suite 400  
Fort Wayne, IN 46802  
Telephone: (260) 424-0600  
Facsimile: (260) 424-0712  
Email: cmyers@myers-law.com  
Counsel for Plaintiff

*IMS/js*

LAW OFFICES  
809 S. Calhoun Street Suite 400 • Fort Wayne, IN 46802  
(260) 424-0600 • (260) 424-0712

Kosciusko County, Indiana

CHRISTOPHER C. MYERS  
ILENE M. SMITH  
LORI W. JANSEN  
DAVID W. FRANK

cmyers@myers-law.com  
ismith@myers-law.com  
ljansen@myers-law.com  
dfrank@myers-law.com

December 14, 2018

Kosciusko County Sheriff  
221 W. Main Street  
Warsaw, IN 46580

**TORT CLAIM NOTICE**

Dear Sheriff:

I represent Douglas E. Marsillett, II. This letter constitutes the Tort Claim Notice of Mr. Marsillett.

**Date, Time, Place and Circumstances of the Loss:**

Claimant was incarcerated at the Kosciusko County Jail on or about June 5, 2018. About two weeks thereafter, Claimant had an incident wherein he has a seizure, became unconscious and fell on his face on the toilet bowl rim. Thereafter, he was denied medical care for approximately 45 days. He was not able to visit a doctor until July 2018. His seizure medications had been kept from him, or they were given away to other inmates, but he simply did not get them. Claimant did not get medical care for at least 45 days after the fall. He was denied ice and soft food. As a result of the incident, Claimant's jaw was offset, resulting in Claimant's teeth being offset, causing a tooth to break. After being released, Claimant was seen at Parkview Hospital in Warsaw. Tests showed that Claimant was seriously injured. Claimant needs corrective surgery on his eye socket and cheek bone, and his jaw is still out of place and locks up.

**Names of All Persons Involved (If Known):**

Douglas E. Marsillett, II  
Sheriff W.R. Goshert  
Unidentified jail officers and medical staff  
Medical staff at Parkview Hospital Warsaw

**Damages:**

Claimant suffered physical pain, mental suffering, damages to his face/eye socket/cheek bone, damage to mouth and teeth, medical and hospital expenses, future medical procedures and

Re: Tort Claim Notice of Douglas E. Marsillet, II

December 14, 2018

corrective surgeries, mental anguish, emotional distress and other damages and injuries. Claimant seeks compensatory damages, punitive damages pursuant to 42 U.S.C. § 1983, and reasonable attorney's fees and costs.

**Residence of Claimant at the Time of the Loss and at the Time of the Filing of This Notice:**

At the time of the loss, from about June 15, 2018 up through late July 2018, Claimant was housed at the Kosciusko County Jail at 221 W. Main Street, Warsaw, Indiana 46580. Presently, Claimant's address is 3450 18B Road, Tippecanoe, Indiana 46570.

Very Truly Yours,

**CHRISTOPHER C. MYERS & ASSOCIATES**



Christopher C. Myers

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**02 1P**  
**0004670758**  
**DEC 14 2018**  
**ZIP CODE 46802**

**\$ 000.00**

Extra Services & Fees (indicate by checkmark)

☐ Return Receipt (hard-copy)  
☐ Return Receipt (electronic)  
☐ Certified Mail Restricted Delivery  
☐ Adult Signature Required  
☐ Adult Signature Restricted Delivery

Postage \$  
 Total Postage and Fees \$

Sent To Kosciusko Sheriff  
 Street and Apt. No., or PO Box No.  
 City, State, ZIP+4®

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

■ Complete items 1, 2, and 3.  
 ■ Print your name and address on the reverse so that we can return the card to you.  
 ■ Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
Kosciusko County Sheriff  
221 W. Main Street  
Warsaw, IN 46580

2. Article Number (Transfer from service label)  
7017 1000 0000 2842 4112

3. Service Type  
☐ Adult Signature  
☐ Adult Signature Restricted Delivery  
☒ Certified Mail®  
☐ Certified Mail Restricted Delivery  
☐ Collect on Delivery  
☐ Collect on Delivery Restricted Delivery  
☐ Mail Restricted Delivery

☐ Priority Mail Express®  
☐ Registered Mail™  
☐ Registered Mail Restricted Delivery  
☒ Return Receipt for Merchandise  
☐ Signature Confirmation™  
☐ Signature Confirmation Restricted Delivery

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
X Robert W. Long ☐ Agent ☐ Addressee

B. Received by (Printed Name)  
Robert W. Long

C. Date of Delivery  
12/17/18

D. Is delivery address different from item 1? ☐ Yes ☐ No  
 If YES, enter delivery address below:  
DEC 19 2018

Domestic Return Receipt

PS Form 3811, July 2015 PSN 7530-02-000-9053